MAMMOTH EMPIRE CONSTRUCTION SDN BHD v. STAM ENGINEERING SDN BHD & ANOTHER CASE

HIGH COURT MALAYA, SHAH ALAM
VAZEER ALAM MYDIN MEERA J
[ORIGINATING SUMMONS NO: BA-24C-3-01-2018 & BA-24C-8-02-2018]
26 SEPTEMBER 2018

CONSTRUCTION LAW: *Adjudication – Setting aside – Application to set aside adjudication decision – Claim for payment for works done in sub-contract – Whether service of payment claim defective and contrary to s. 38 of Construction Industry and Payment Adjudication Act 2012 ('CIPAA') – Adjudicator dismissed respondent's request for hearing and to call witnesses – Whether adjudicator breached rules of natural justice – Whether adjudicator empowered under s. 25 of CIPAA to establish procedures for conduct of proceedings – Whether respondent complied with statutory rights prescribed in s. 10(1) and (2) of CIPAA – Whether adjudicator acted in excess of jurisdiction under s. 15(b) and/or s. 15(d) of CIPAA*

CONSTRUCTION LAW: *Adjudication – Enforcement – Application to enforce adjudication decision – Claim for payment for works done in sub-contract – Whether service of payment claim defective and contrary to s. 38 of Construction Industry and Payment Adjudication Act 2012 ('CIPAA') – Whether adjudicator breached rules of natural justice – Whether adjudicator empowered under s. 25 of CIPAA to establish procedures for conduct of proceedings – Whether there were impediments to adjudication decision being enforced – Whether all requirements for enforcement of adjudication decision met – Construction Industry and Payment Adjudication Act 2012, s. 28*

The respondent *vide* a work order appointed the claimant as a sub-contractor for a construction project. Subsequently, the claimant complained that the respondent had not made payment for works done on the sub-contract and, accordingly, served a payment claim under s. 5 of the Construction Industry and Payment Adjudication Act 2012 ('CIPAA') on the respondent. The respondent did not serve its payment response as required under s. 6 of the CIPAA. The claimant served on the respondent its adjudication claim and the respondent filed and served its adjudication response. The adjudicator handed down the adjudication decision wherein he decided in favour of the claimant, *inter alia*, that the adjudication amount of RM1,302,275.89 be paid by the respondent to the claimant. The respondent then filed the originating summons No: BA-24C-3-01-2018, *inter alia*, to set aside the adjudication decision under s. 15(b) and (d) of the CIPAA, and to stay the adjudication decision under s. 16(1) of the CIPAA. The claimant, on the other hand, filed originating summons No BA-24C-8-02-2018 *inter alia* to enforce the adjudication decision under s. 28 of the CIPAA. Both originating summons were heard together as they involved the same adjudication decision affecting the parties and involved the same inter-related issues. The issues that arose

were (i) whether the service of the payment claim was defective and contrary to s. 38 of the CIPAA because it was not served at the respondent's registered office or business address; (ii) whether the adjudicator had breached the rules of natural justice when he dismissed the respondent's request for hearing in order for the respondent to submit some documents and evidence in support of the adjudication response and also to call witnesses; and (iii) whether the adjudicator had acted in excess of jurisdiction by placing the burden of proof on the respondent.

Held (dismissing respondent's application No BA-24C-3-01-2018; allowing claimant's application No: BA-24C-8-02-2018):

(1) The wordings of s. 38(b) of the CIPAA does not require the service of the payment claim to be done at the registered office. It would suffice if it was done at the respondent's usual place of business. The payment claim was served at the respondent's usual place of business at a building, Empire City. The Empire City address also served as the respondent's site office, and all correspondence delivered to the Empire City address was acknowledged receipt by the respondent. The evidence overwhelmingly showed that the respondent's Empire City address was one of its usual place of business, and the service of the payment claim at this address was very well in accordance to the provisions of s. 38 of the CIPAA. (paras 11 & 13)

(2) The adjudicator is empowered under s. 25 of the CIPAA to establish procedures for the conduct of the proceedings. It was entirely within the discretion of the adjudicator to decide if he wants to convene a hearing. The CIPAA does not afford the respondent an opportunity to be orally heard at a hearing convened. Section 10(1) and (2) of the CIPAA, however, clearly provides that the respondent shall serve a written adjudication response together with any supporting documents on the claimant and the adjudicator within ten days from receipt of the adjudication claim. The respondent ought to have availed itself of this right and served all documents that it intended to rely on. The respondent was given ample opportunity to present all the documentary evidence that it sought to rely on and be heard on it by way of written submissions. The respondent chose not to comply with the statutory rights prescribed in the CIPAA, and in particular s. 10(1) and (2). Having made that choice, the respondent could not now be heard to complain about breach of natural justice. (paras 17, 18 & 19)

(3) The adjudicator's refusal to hold a hearing, even when requested by one of the parties, did not amount to a denial of the right to be heard nor a material breach of natural justice. The adjudicator had not acted in excess of jurisdiction under s. 15(b) and/or s. 15(d) of the CIPAA as he had acted well within the powers conferred to him under s. 25 of the CIPAA. It was wholly improper for this court to review the exercise of discretionary powers, statutorily conferred upon the adjudicator in

conducting the adjudication, when the facts and the law did not warrant any such review. In any event, even if the adjudicator had not followed the provisions of the Evidence Act 1950 in deciding to admit or disallow any evidence, that cannot in itself be a ground to set aside the adjudication decision, for s. 12(9) of the CIPAA provides that the Evidence Act 1950 shall not apply to adjudication proceedings under CIPAA (paras 21 & 30)

(4) As regards the respondent's contention in respect of the back-charge and/or set off against payments due to the claimant, these were in respect of the respondent's counterclaim, and thus, the respondent bore the burden to prove the same. The adjudicator had after examining the evidence found that the respondent had failed to produce any evidence to prove these contentions to the satisfaction of the adjudicator. The adjudicator was well placed to arrive at his decision to dismiss the respondent's counterclaim. There was thus no merit in the respondent's complaint that the adjudicator had misplaced the burden of proof unto the respondent. The respondent's application in the originating summons was therefore dismissed. (paras 28-32)

(5) In respect of the originating summons no: BA-24C-8-02-2018 *ie*, for enforcement of the adjudication decision, the respondent's opposition was based on the ground that it had applied to set aside that decision. Since the respondent's application to set aside the adjudication decision had been dismissed after having heard on its merits, there were no impediments to the adjudication decision being enforced in the manner provided in s. 28 of the CIPAA. All the requirements of the law for the enforcement of the adjudication decision had been met by the claimant. Hence, the claimant's application in originating summons was allowed. (paras 36 & 37)

Case(s) referred to:

Ann Joo Integrated Steel Sdn Bhd v. Lim Chuan Hock & Sons Sdn Bhd [2018] 4 CLJ 497 HC ***(refd)***

Martego Sdn Bhd v. Arkitek Meor & Chew Sdn Bhd & Another Case [2017] 1 CLJ 101 HC ***(refd)***

Pembinaan Masyuli Sdn Bhd v. Mow Seng Housing & Land Development Sdn Bhd [1998] 3 CLJ 575 CA ***(refd)***

PWC Corporation Sdn Bhd v. Ireka Engineering & Construction Sdn Bhd & Another Case [2018] 1 LNS 162 HC ***(refd)***

Terminal Perintis Sdn Bhd v. Tan Ngee Hong Construction Sdn Bhd & Another Case [2017] 1 LNS 177 HC ***(refd)***

Legislation referred to:

Construction Industry Payment And Adjudication Act 2012, ss. 5, 6, 9, 10(1), (2), 11, 12(1), (9), 15(b), (d), 16(1), (2), 25(a), (g), (l), 28(1), (2), 38(b)

For the appellant - M/s Azmi Fadzly Maha & Sim
For the respondent/plaintiff - M/s R Shan & Assocs

Reported by Suhainah Wahiduddin

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JUDGMENT

Vazeer Alam Mydin Meera J:

[1] Mammoth Empire Construction Sdn Bhd ("respondent") had *vide* a work order dated 1 February 2017 appointed Stam Engineering Sdn Bhd
B ("claimant") as sub-contractor for a construction project. The total contract sum for the sub-contract was RM4,450,925.

[2] The claimant complained that the respondent had not made payment for work done on the sub-contract and accordingly served a payment claim under s. 5 of the CIPAA on the respondent. However, the respondent did not
C serve its payment response as required under s. 6 of the CIPAA.

[3] Subsequently, the claimant served on the respondent its adjudication claim dated 18 September 2017. The respondent filed and served its adjudication response dated 9 October 2017. The claimant then served its adjudication reply on 13 October 2017.

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[4] The plaintiff filed its written submissions on 24 November 2017, whilst the respondent filed its written submissions on 4 December 2017.

[5] The adjudicator handed down the adjudication decision on 20 December 2017, as corrected on 10 January 2018, wherein he decided
E in favour of the claimant as follows:

(i) that the adjudication amount of RM1,302,275.89 be paid by the respondent to the claimant within 14 days from 20 December 2017;

(ii) the sum of RM15,933.74 being the interest from 18 September 2017 be
F paid by the respondent to the claimant within 14 days from 20 December 2017;

(iii) interest at 5% per annum be paid on the sum of RM1,302,275.89 to be calculated day to day from 19 September 2017 to date of full payment be paid by the respondent to the claimant; and

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(iv) the respondent shall pay the cost of adjudication proceedings in the sum of RM16,862.56 to the claimant within 14 days from 20 December 2017.

[6] The respondent then filed the Originating Summons No. BA-24C-3-01-2018 on 8 January 2018, *inter alia* to set aside the adjudication decision
H under s. 15(b) & (d) of the CIPAA, and to stay the adjudication decision under s. 16(1) of the CIPAA.

[7] The claimant on the other hand had filed Originating Summons No. BA-24C-8-02/2018 on 6 February 2018, *inter alia*, to enforce the
I adjudication decision under s. 28 of the CIPAA.

[8] Both originating summons were heard together as they involve the same adjudication decision affecting the parties and involve the same inter-related issues.

[9] In summary, the respondent has laid down three separate grounds to set aside the adjudication decision, and they are, as follows:

(i) the adjudicator had breached the rules of natural justice in not giving proper consideration to the fact that the service of the payment claim dated 28 July 2017 was not in accordance to s. 38 of the CIPAA, in that the payment claim was allegedly served on an address that was not the respondent's registered office address or business address, and thus the service ineffective and/or invalid. The respondent claims that this infraction had deprived the respondent of the opportunity to reply the payment claim;

(ii) the adjudicator had breached the rules of natural justice and/or acted in excess of jurisdiction when he dismissed the respondent's solicitor's request for hearing in order for the respondent to submit some documents and evidence in support of the adjudication response and also to call witnesses; and

(iii) the adjudicator had acted in excess of jurisdiction when he had placed the burden of proof in respect of the respondent's defence and counterclaim in the adjudication unto to the respondent to prove that the works were not completed and not on the claimant to prove that the works had been completed.

[10] On the first issue, the respondent alleges that the service of the payment claim is defective and contrary to s. 38 of the CIPAA because it was not served at the respondent's registered office or business address. Section 38(b) of the CIPAA reads:

> Service of a notice or any other document under this Act shall be effected on the party to be served:
>
> ...
>
> (b) By leaving the notice or document at the **usual place of business** of the party during normal business hours of that party;
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> (emphasis added)

[11] Hence, the wordings of s. 38(b) of the CIPAA does not require the service of the payment claim to be done at the registered office. It would suffice if it is done at the respondent's usual place of business. The payment claim was served at the respondent's usual place of business at H-03-01, Menara H, No. 8, Jalan Damansara, Empire City, PJU 8, 47820 Petaling Jaya ("Empire City"). There is evidence showing that the respondent's solicitors during the CIPAA Adjudication, Messrs B H Lawrence & Co, had *vide* their letter dated 29 September 2017 admitted to the relocation of the respondent's office from Empire Subang to Empire City. Further, the Empire City address also served as the respondent's site office, and all correspondence delivered to the Empire City address was acknowledged receipt by the respondent by affixing a rubber stamp "Empire Mammoth Project Management S/B". Additionally, text messages *via* the WhatsApp

messaging platform had confirmed the venue for meetings between the claimant and the respondent held at the Empire City address since 29 March 2017. Further, in one of the respondent's letters signed by its directors (exh. L5 in the claimant's affidavit) it is shown that the respondent's earlier address at Empire Subang is deleted and affixed thereon is a rubber stamp impression showing the address of the respondent as per the Empire City address.

[12] In *Pembinaan Masyuli Sdn Bhd v. Mow Seng Housing & Land Development Sdn Bhd* [1998] 3 CLJ 575; [1998] 1 MLJ 601, the Court of Appeal in construing whether a particular premise was one of the respondent's principal offices held as follows:

> There is an admission by one of the respondents' directors in an affidavit affirmed on 12 January 1994 that at 3pm on 10 April 1993 (the same afternoon the writ and statement of claim was served), the respondents held a board meeting at the premises attended by a representative of the appellants to discuss the amount due to the appellants. *The fact that such a board meeting was held at the sales office reinforces our finding that the premises was another of the respondents' principal office used by them to conduct their business.*
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> (emphasis added)

[13] Hence, similarly, in the present case, I find that the evidence overwhelmingly shows that the respondent's Empire City address is one of its usual place of business, and the service of the payment claim at this address is very well in accordance to the provisions of s. 38 of the CIPAA. Thus, I find that nothing turns on this first complaint.

[14] As for the second ground, namely the adjudicator's alleged breach of natural justice and/or acting in excess of jurisdiction by reason of the adjudicator's dismissal of the respondent's request for an oral hearing to submit further documentary and oral evidence, my findings are as follows.

[15] The respondent's solicitors *vide* letter dated 8 November 2017, had by reference to para. 21 of the adjudication response, requested for a hearing. Paragraph 21 reads:

> The Respondent humbly prays for a Hearing to be held in order for the Respondent to submit the relevant documents and to present witnesses for this Adjudication, followed by submissions.

[16] The adjudicator had considered that request and issued his order for Directions No. 1 dated 16 November 2017 dismissing the respondent's aforesaid request and giving reasons for the same. Among others, the adjudicator stated in the said order, that:

(i) Pursuant to ss. 9, 10 and 11 of the CIPAA, all documents that the parties intend to rely on must be produced together with their adjudication claim or adjudication response. Thus the need for a hearing to produce documents does not arise.

(ii) Having studied the adjudication claim or adjudication response, he does not see a need for witnesses to be called to testify at a hearing as these issues can be dealt with and decided based on documentary evidence.

(iii) In exercise of the powers given under s. 25(a), (g) and (l) of the CIPAA, he dismissed the respondent's application for hearing.

[17] In addition to the said order for Direction No. 1, the adjudicator had also recorded his reasons in paras. 28 to 30 of the adjudication decision, as to his decision in dismissing the respondent's request for an oral hearing, among others noting that the adjudicator is empowered under s. 25 of the CIPAA to establish procedures for the conduct of the proceedings.

[18] I find that the CIPAA does not afford the respondent an opportunity to be orally heard at a hearing convened for that purpose. Now, s. 10(1) and (2) of the CIPAA clearly provides that the respondent shall serve a written adjudication response together with any supporting documents on the claimant and the adjudicator within ten days from receipt of the adjudication claim. Thus, the respondent ought to have availed itself of this right and served all documents that it intends to rely on when the adjudication response was filed. This view is shared by the learned author Professor Sundra Rajoo in his book entitled "*A Practical Guide to Statutory Adjudication in Malaysia*" in the following words:

> The Adjudication Response is meant to be an answer to the Adjudication Claim and must enclose with it all the documents that the Respondent seeks to rely.

[19] The fact is that the respondent was given ample opportunity to present all the documentary evidence that it seeks to rely on and be heard on it by way of written submissions. The respondent chose not to comply with the statutory rights prescribed in the CIPAA, and in particular s. 10(1) and (2), and serve its documents in the manner and time prescribed. Having made that choice, the respondent will have to live with it, and cannot now be heard to complain about breach of natural justice and/or the adjudicator having acted in excess of jurisdiction.

[20] In any event, s. 12(1) of the CIPAA provides that the adjudicator shall conduct the adjudication in a manner as the adjudicator considers appropriate within the powers provided in s. 25 of the CIPAA. Thus, it is entirely within the discretion of the adjudicator to decide if he wants to convene a hearing. The adjudicator is conferred with discretionary power to conduct the adjudication and is not his duty or obligation to exercise all or any of the powers under s. 25 of the CIPAA or be dictated to by any of the parties to the adjudication - see *Ann Joo Integrated Steel Sdn Bhd v. Lim Chuan Hock & Sons Sdn Bhd* [2018] 4 CLJ 497; [2017] AMEJ 0966.

[21] Similarly, my learned brother Lee Swee Seng J in *Martego Sdn Bhd v. Arkitek Meor & Chew Sdn Bhd* [2017] 1 CLJ 101; [2016] 6 AMR had held that the adjudicator's refusal to hold a hearing, even when requested by one of the parties, did not amount to a denial of the right to be heard nor a material breach of natural justice. This is what my learned brother said of the adjudicator's exercise of discretion, and I wholly agree with his reasoning:

> He considered the evidence in the documents submitted by both parties and after reading the submissions of both parties, he arrived at his decision. The party aggrieved by his decision cannot elevate the rejection of their request for an oral hearing to a breach of natural justice on the assumption that had he heard the witnesses orally, he would have come to a different decision. That would be going into the sufficiency of the evidence and the weight to be attached to it and to indirectly set aside the decision on ground of the failure to properly appreciate the evidence before him. That is not a ground countenanced under s. 15 of the CIPAA and this is not an appeal.

[22] In this regard, neither do I find that the adjudicator had acted in excess of jurisdiction under s. 15(b) and/or 15(d) of the CIPAA as he had acted well within the powers conferred to him under s. 25 of the CIPAA:

(i) in dismissing the respondent's request for an oral hearing; and

(ii) in allowing the respondent's request for filing written submissions but confining it to arguments on points of law that had been raised in the adjudication claim, adjudication response and adjudication reply.

[23] Hence, I agree with submissions of learned counsel for the claimant that it is wholly improper for this court to review the exercise of discretionary powers statutorily conferred upon the adjudicator in conducting the adjudication, when the facts and the law do not warrant any such review.

[24] I now move on to the final complaint of the respondent, ie, that the adjudicator had acted in excess of jurisdiction by placing the burden of proof on the respondent. The respondent's allegation in this regard, as contained in the respondent's affidavit, reads:

> Pihak Adjudikator telah melangkaui bidang kuasanya apabila Adjudikator telah meletakkan beban membuktikan kepada Plaintif untuk membuktikan kerja-kerja tidak disiapkan dan bukannya ke Defendan untuk membuktikan bahawa kerja-kerja telah disiapkan.

[25] The respondent has merely made a general averment, that is devoid of any particulars in support of that allegation. However, learned counsel for the respondent in his written submissions contends as follows:

> … the Adjudicator had placed the burden of proof on the Plaintiff (Respondent) to prove that the works were not completed and not upon the Defendant (Claimant) to prove that works have been completed as paragraph 37 of page 11 of the said Adjudication Decision as follows:

> Furthermore, the Respondent had not produced in this adjudication any documentary evidence showing otherwise. Therefore, the Respondent's contention in the Adjudication Response and Respondent's Written Submission that the Claimant did not carry out the works as claimed and/or that the Claimant has not proven that it has carried out the works as claimed is bare denial and shall not be accepted.

[26] I am afraid that the above extract from the adjudication decision has been taken out of context and does not convey in full the entire reasoning for the adjudicator's decision. One would have to read from paras. 32 to 42 of the adjudication decision to fully grasp the adjudicator's application of the law to the facts and the conclusions that he reached. In particular, the full para. 37 of the adjudication conveys an entirely different meaning, and I reproduce it:

> Following from the above, *I am satisfied from the documents submitted by the Claimant in this adjudication proceedings that the Claimant has proven that it has executed and completed the works and/or had procured and delivered the materials unused as at the time of the purported termination of contract in June 2017 which it is now claiming for payments in this adjudication*. Furthermore, the Respondent had not produced in this adjudication any documentary evidence showing otherwise. Therefore, the Respondent's contention in the Adjudication Response and Respondent's Written Submission that the Claimant did not carry out the works as claimed and/or that the Claimant has not proven that it has carried out the works as claimed is bare denial and shall not be accepted.
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> (emphasis added)

[27] A reading of the relevant passages in the adjudication decision, an in particular paras. 32 to 42 shows that the adjudicator had placed the burden of proof of the claimant's claim on the claimant and that of the counterclaim on the respondent. The adjudicator had found that the claimant had discharged its burden and proved its claim.

[28] As regards the respondent's contention in respect of the back-charge and/or set-off against payments due to the claimant, the adjudicator had recorded his findings and reasons in paras. 39-42 of the adjudication decision, and I agree that, as these are in respect of the respondent's counterclaim, the respondent bears the burden to prove the same. The adjudicator had after examining the evidence, found that the respondent had failed to produce any evidence to prove these contentions to the satisfaction of the adjudicator. In this regard, the adjudicator was well placed to arrive at his decision to dismiss the respondent's counterclaim.

[29] In any event, I find that the adjudicator had, in paras. 31 to 38 and paras. 54 to 62 of the adjudication decision, recorded the reasons for his findings, and I do not find anything untoward or legally questionable in those reasoning. Hence, I do not find any merit in the respondent's complaint that the adjudicator had misplaced the burden of proof unto the respondent. Such an argument as raised herein was considered by my learned brother Lee Swee Seng J in *Terminal Perintis Sdn Bhd v. Tan Ngee Hong Construction Sdn Bhd & Another Case* [2017] 1 LNS 177; [2017] 7 AMR 928, and held that:

> All said, findings of facts and findings of mixed facts and law are matters within the sole province of the adjudicator and this court would not be able to interfere in a s. 15 of the CIPAA application for breach of natural justice or excess of jurisdiction. In the context in which the above findings were made, there is nothing that goes to jurisdiction of the adjudicator as in the validity of his appointment. Even if the adjudicator had come to a wrong finding of fact premised on his wrong understanding of the law, this court would not generally interfere unless that finding of fact and interpretation of the law go to jurisdiction or that the other grounds for setting aside in s. 15(a) or (c) of the CIPAA apply.

I fully concur with that view.

[30] In any event, even if the adjudicator had not followed the provisions of the Evidence Act 1950 in deciding to admit or disallow any evidence, that cannot in itself be a ground to set aside the adjudication decision, for s. 12(9) of the CIPAA provides that the Evidence Act 1950 shall not apply to adjudication proceedings under CIPAA. See *PWC Corporation Sdn Bhd v. Ireka Engineering & Construction Sdn Bhd & Another Case* [2018] 1 LNS 162; [2018] AMEJ 0120.

[31] Therefore, in the overall, I find that there are no merits in any one of the complaints raised by the respondent that would warrant curial intervention by this court.

[32] As for the application for stay of the adjudication decision, my decision is as follows. Any application to stay the adjudication decision would have to be made pursuant to s. 16 of the CIPAA that reads:

> 16. Stay of adjudication decision
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> (1) A party may apply to the High Court for a stay of an adjudication decision in the following circumstances:
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> (a) an application to set aside the adjudication decision under section 15 has been made; or
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> (b) the subject matter of the adjudication decision is pending final determination by arbitration or the court.
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> (2) The High Court may grant a stay of the adjudication decision or order the adjudicated amount or part of it to be deposited with the Director of the KLRCA or make any other order as it thinks fit.

[33] Whilst the respondent has invoked s. 16(1) of the CIPAA in the intitulement to the originating summons, there is no express indication as to whether the stay is sought under sub-s. (1) or sub-s. (2) of s. 16. However, the relevant prayer for relief sought in the originating summons reads as follows:

> 2. Keputusan Adjudikasi di dalam kes adjudikasi No. KLRCA/D/ADJ-1105-2017 digantung sementara menanti perlupusan Saman Pemula ini;

[34] Therefore, it seems that the application for stay of the adjudication decision is being made only pending disposal of the respondent's application to set aside the adjudication decision. Now, since I have disposed that application by dismissing the same, the application for stay has become redundant and as such I had dismissed it as well.

[35] Wherefore, the respondent's application in Originating Summons No: BA-24C-3-01-2018 was dismissed with cost of RM5,000.

[36] In respect of the Originating Summons No: BA-24C-8-02-2018, ie, for enforcement of the adjudication decision, the respondent's opposition is based upon the ground that it had applied to set aside that decision *vide* Originating Summons No: BA-24C-3-01-2018. Now, since the respondent's application to set aside the adjudication decision has been dismissed after having been heard on its merits, I do not find any impediments to the adjudication decision being enforced in the manner provided in s. 28 of the CIPAA that reads:

> 28. Enforcement of adjudication decision as judgment
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> (1) A party may enforce an adjudication decision by applying to the High Court for an order to enforce the adjudication decision as if it is a judgment or order of the High Court.
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> (2) The High Court may make an order in respect of the adjudication decision either wholly or partly and may make an order in respect of interest on the adjudicated amount payable.
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> (3) The order made under subsection (2) may be executed in accordance with the rules on execution of the orders or judgment of the High Court.

[37] A proper application for enforcement under s. 28(1) of the CIPAA has been filed by the claimant *vide* Originating Summons No: BA-24C-8-02/2018. And all requirements of the law for the enforcement of the adjudication decision has been met by the claimant. Hence, I allowed the claimant's application in Originating Summons No: BA-24C-8-02/2018, and pursuant to s. 28(2) of the CIPAA, I granted order in terms of prayers 1(a), (b), (c), (d) and 2. Cost was fixed at RM5,000.